

1  
2  
3  
4 IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON

5 JANICE LEE SMITH,

6 Plaintiff,

7  
8 vs.

9 MILODRAGOVICH, DALE &  
10 STEINBRENNER, P.C., a Montana  
Professional Corporation; LON J. DALE,  
11 and; MICHAEL BYBEE,

12 Defendants.

CASE NO. C18-997 RSM

FIFTH JOINT STIPULATION AND  
ORDER TO EXTEND DEADLINE  
FOR COMPLETION OF SERVICE OF  
PROCESS AND FOR DEFENDANT  
TO ANSWER

[LCR 7(d)(1) and LCR 10(g)]

13  
14 COME NOW JANICE LEE SMITH, Plaintiff herein, and MILODRAGOVICH,  
15 DALE & STEINBRENNER, P.C., by and through their respective, undersigned counsel  
16 of record, and stipulate and agree as follows:

- 17 1. Plaintiff filed the Complaint in this case on July 5, 2018.
- 18 2. The Complaint in this case is related to the Chapter 11 bankruptcy of  
19 Plaintiff Janice Smith, United States Bankruptcy Court for the Western District of  
20 Washington, Case no. 17-10988-TWD.
- 21 3. Defendant Milodragovich, Dale & Steinbrenner, P.C. waived service  
22 of process.
- 23 4. Plaintiff has not completed service of process on Defendants Lon J. Dale  
24  
25

1 and Michael Bybee, both of whom are principals and/or employees of Defendant  
2 Milodragovich, Dale and Steinbrenner, P.C.

3  
4 5. Pursuant to Fed. R. Civ. P. 4(m), the initial deadline for completing  
5 service of process on Defendant Dale and Bybee was October 3, 2018.

6 6. Pursuant to Fed. R. Civ. P. 12(a)(1)(A)(ii), the Answer of Defendant  
7 Milodragovich, Dale & Steinbrenner, P.C. was initially due on or about October 1,  
8 2018.

9  
10 6. Plaintiff Smith, Defendant Milodragovich, Dale & Steinbrenner, P.C.,  
11 and the Cote family (who are judgment creditors of Plaintiff Janice Smith) had  
12 initially scheduled mediation of this case and other related matters, to be conducted by  
13 mediator Armand J. Kornfeld on November 2, 2018 in Seattle, Washington. The docket  
14 of Ms. Smith's bankruptcy case no. 17-10988-TWD includes a Stipulation related to the  
15 parties' mediation [Dkt. 122] and Order Appointing Mediator [Dkt. 124].

16  
17 7. Based on those facts, the Court granted the parties' first Joint Stipulation  
18 to extend the deadline for completion of service of process to December 3, 2018, and  
19 the filing of defendant's Answer to December 17, 2018.

20 8. Unfortunately, on or about October 30, 2018, the attorney for the Cote  
21 family (Bradley R. Duncan of Hillis Clark Martin & Peterson was summoned to appear  
22 in the United States District for the Eastern District of New York to appear in Court  
23 with his client on November 2, 2018. As a result, the parties had no choice but to  
24

1 postpone the mediation scheduled for November 2, 2018. The parties subsequently  
2 re-scheduled the mediation to be conducted by Mr. Kornfeld on December 11, 2018.

3  
4 9. Based on these circumstances, Plaintiff Janice Smith and Defendant  
5 Milodragovich, Dale & Steinbrenner, P.C. entered into a Second Stipulation to extend  
6 the deadline for Plaintiff to complete service of process on the remaining defendants,  
7 Lon J. Dale and Michael Bybee, through and including Monday, January 7, 2019, and  
8 further agreed to extend the due date for the Answer of Defendant Milodragovich, Dale  
9 & Steinbrenner, P.C. to January 21, 2019. The Court granted the Second Stipulation  
10 by Order entered on November 28, 2018 [Dkt. 11].

11  
12 10. The parties, including the Cote family group thereafter engaged in a  
13 three-way mediation, with mediator Armand “Jay” Kornfeld on December 11, 2018.  
14 Although the parties did not reach a settlement at that time, the parties have continued  
15 to actively negotiate through mediator Kornfeld since that date.

16  
17 11. Plaintiff Janice Smith and Defendant Milodragovich, Dale &  
18 Steinbrenner, P.C. entered into a Third Stipulation to extend the deadline for Plaintiff  
19 to complete service of process on the remaining defendants, Lon J. Dale and Michael  
20 Bybee, through and including Monday, January 21, 2019, and further agreed to extend  
21 the due date for the Answer of Defendant Milodragovich, Dale & Steinbrenner, P.C. to  
22 February 4, 2019. The Court granted this Third Joint  
23 Stipulation on January 8, 2019.

1  
2 12. Plaintiff Janice Smith and Defendant Milodragovich, Dale &  
3 Steinbrenner, P.C. entered into a Third Stipulation to extend the deadline for Plaintiff  
4 to complete service of process on the remaining defendants, Lon J. Dale and Michael  
5 Bybee, through and including Monday, February 4, 2019, and further agreed to extend  
6 the due date for the Answer of Defendant Milodragovich, Dale & Steinbrenner, P.C. to  
7 February 4, 2019. The Court granted this Fourth Joint Stipulation on January 24, 2019.  
8

9 13. Prior to February 4, 2019, undersigned counsel orally agreed to enter  
10 into a Fifth Stipulation to extend the deadline for Plaintiff to complete service of  
11 process on the remaining defendants, Lon J. Dale and Michael Bybee, and further  
12 agreed to extend the due date for the Answer of Defendant Milodragovich, Dale &  
13 Steinbrenner, P.C. However, due to the intervening snow event in the Seattle  
14 Metropolitan area and an intervening illness on the part of Plaintiff's counsel, they did  
15 not submit a formal Stipulation to the Court for approval.  
16

17 14. Nevertheless, the three-way mediation process has continued, without  
18 interruption (other than the delay occasioned by the events described in ¶13, above) and  
19 counsel for the parties jointly stipulate and represent to the Court that the parties have  
20 continued to make progress throughout the mediation process.  
21

22 15. Based on the foregoing circumstances, Plaintiff Janice Smith and  
23 Defendant Milodragovich, Dale & Steinbrenner, P.C. stipulate and agree to extend the  
24 due date for Plaintiff to complete service of process on the remaining defendants, Lon J.  
25

1 Dale and Michael Bybee, through and including Monday, March 18, 2019, and further  
2  
3 agreed to extend the due date for the Answer of Defendant Milodragovich, Dale &  
4 Steinbrenner, P.C. to Monday, April 1, 2019.

5 DATED: February 25, 2019.

6 WAID LAW OFFICE, PLLC

7  
8 BY: /s/ Brian J. Waid  
9 BRIAN J. WAID  
10 WSBA No. 26038  
11 Attorney for Plaintiff

12 SCHWABE, WILLIAMSON & WYATT

13 BY: /s/ Christopher H. Howard  
14 CHRISTOPHER H. HOWARD  
15 WSBA No. 11074  
16 RYAN W. DUMM  
17 WSBA No. 46738  
18 Attorneys for Defendant  
19 Milodragovich, Dale &  
20 Steinbrenner, P.C.

21 **ORDER APPROVING STIPULATION**

22 IT IS SO ORDERED this 1<sup>st</sup> day of March 2019.

23  
24  
25 

RICARDO S. MARTINEZ  
CHIEF UNITED STATES DISTRICT  
JUDGE